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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,308

03/31/2004

Brian Poitras

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THOMAS P O'CONNELL
1026A MASSACHUSETTS AVENUE
ARLINGTON, MA 02476

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

06/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,308

Applicant(s)

POITRAS ET AL.

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8-31 and 36-43 is/are pending in the application.
- 4a) Of the above claim(s) 2-7 and 32-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8-31 and 36-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/31/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Claims 2-7 and 32-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 25, 2007.

Applicant's election with traverse of the invention of Species I (figures 1-4; clms. 1, 8-31, 36-43) in the reply filed on April 25, 2007 is acknowledged. The traversal is on the ground(s) that no serious burden to the Examiner exists to prosecute all of the claims because all of the claims are directed to a composting system. This is not found persuasive because the specifics of the composting system of each embodiment differ. For example the embodiment of Species II (fig. 5-8) includes baffles (110, 112) not included in the elected embodiment of figures 1-4. Such differing structure would require further and different search requirements over that of the elected invention. Accordingly the embodiments are separable and distinct and therefore restriction is proper and stands.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 98 & 68.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the *at least one supply aperture disposed along the auger shaft* (clm. 23, 42) and the *at least one supply aperture disposed along the at least one mixing vane* (clm. 24, 43) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to review all of the drawings and specification for proper correlation between the reference characters listed within the specification and that illustrated in the drawings. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action.

Examiner further notes new corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the figures are illegible and are of poor quality, for example the reference characters are not clear and specifically regarding figures 1 to what element the leadlines point or illustrate is not clear with equally dark lines. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be

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canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1, 8-31 and 36-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1 and 31, the recitation, "*an auger shaft rotatably retained relative to the digestion chamber*" is ambiguous. Examiner notes, to be rotatably retained relative to the chamber implies either rotatably retained within or outside of the chamber. However, neither the specification nor the drawings provide support for an auger that is both rotatably retained within and outside of the digestion chamber. Applicant's attempt to draft a broad claim lends to structure not positively supported by the disclosure. Appropriate correction is required.

With regard to claim 9, the terms, “associated with” render the claim indefinite.

Examiner suggests –operably connected—or –operably coupled--.

Similarly regarding claims 14, 15, 17, 18 and 36, the terms, “*associated with*” render the claims indefinitely.

Regarding claim 11, there is no support within the disclosure of the drawings of the Species I, embodiment of figures 104 that supports the recitation, “the input aperture, the first intermediate aperture, the second intermediate aperture, and the exhaust aperture sequentially decrease ineffective height” such appears to be a claim readable on the non-elected invention of Species II, figure 5-8.

With regard to claim 20 it is not clear how if the malfunction report communications a malfunction of a portion of the composting system, i.e., breakage or jamming on the shredding unit, or a malfunction in the shaft 16 (Disclosure pg. 22). How is it the malfunction report includes an indication of the location of the composting system. Examiner further notes the claims do not positively recite the composting system to be mobile or portable, therefore the location of the composting system is dependent upon operator choice and therefore relative.

With regard to claim 22, the term, “*can be*” renders the claim vague. Are fluids introduced into the digestion chamber or not?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 16, 19, 21, 22 and 25-27 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Kerouac (6,071,740). Kerouac discloses a composting system comprising a digestion chamber (fig. 4) with an input aperture and an exhaust aperture; an auger shaft (130) rotatably retained relative to the chamber; at least one mixing vane (134) retained relative to the auger and a means for inducing rotation of the auger (col. 8, 42-46).

With regard to claims 16 and 19 as best as can be understood, Kerouac discloses at least one malfunction sensor for sensing a malfunction of the composting system. Examiner notes that Kerouac's temperature and CO₂ sensors in conjunction with temperature and carbon dioxide level readouts of the operator control station (310) function as a malfunction sensor. In that if the temperature is too low or too high such is determined by the sensor and readout and a malfunction of the temperature within a chamber can then be known.

With regard to claim 21, as best as can be understood, Kerouac discloses means for communication a malfunction report comprises means for communicating a malfunction report to a remotely located receiver (310) depending on type of malfunction. Examiner notes the temperature and CO₂ sensors or Kerouac communicate functioning the temperature and CO₂ levels to the operator station (i.e. remote receiver).

With regard to claim 22, as best as can be understood, Kerouac discloses a means for enabling an introduction of fluids into the digestion chamber. Examiner notes the aperture (206) is a means for enabling an introduction of fluids. Examiner further notes the claim as written does not positively recite introduction of fluids for improved composting.

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With regard to claim 25, as best as can be understood, Kerouac discloses wherein the means for inducing a rotation of the auger shaft comprises a power unit (col. 8, line 42-44) and further comprising a shell housing (20; fig. 1) wherein the digestion chamber and the power unit are disposed in the shell housing (fig. 1).

With regard to claim 26, as best as can be understood, Kerouac discloses a barrier wall (fig. 1, 2).

With regard to claim 27 as best as can be understood, Kerouac discloses a shredding unit (120).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28 and 30 as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerouac (6,071,740) in view of Takahashi et al. (4,752,038). Kerouac is silent to the type of shredder or the use of counter-rotating shredding shafts. Takahashi teaches in a closely related art, a shredder unit having counter-rotating shredding shafts (fig. 1) with at least one feed arm (2) for feeding material to the shredding shafts (fig. 1). Because the references are from a similar art, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Kerouac's shredder unit with a unit having counter-rotating blades and a feed arm so as to efficiently feed and shred material as taught by Takahashi.

Claims 29 as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerouac (6,071,740) in view of Haase (4,230,282). Kerouac does not disclose a magnetic rotatable drum and scraper. Haase teaches in a closely related art a shredder (3; fig. 1) having counter-rotating blades a magnetic drum (14) separator and scraper (13) for scraping/separating ferrous material from the drum. As to the recitation, scraper, Examiner notes scraper to be defined as to move in sliding contact with a rough surface (Merriam Webster On-Line Dictionary). Because the references are from a similar art, it would have been obvious at the time of the invention to provide Kerouac with a magnetic drum and scraper so as to remove material from the drum as taught by Haase.

Allowable Subject Matter

Claim 8, 10, 12, 13 and 37-43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if any 35 U.S.C. 112 rejections were overcome.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose or fairly suggest wherein the digestion chamber is subdivided into a plurality of subchambers by at least one divider wall *wherein the auger shaft is disposed through each of the plurality of subchambers* as set forth in claim 8. Examiner further notes that claim 31 appears to contain allowable subject matter and defined as wherein the auger shaft traverses from adjacent to the input end of the digestion chamber to adjacent to the output end of the digestion chamber in combination with the rest of the positively recited elements as

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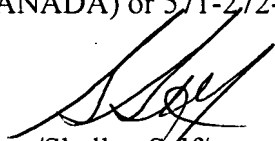
set forth in claim 31. Claim 31 would be deemed allowable if re-written in encompassing the same scope and overcoming the 35 U.S.C. 112 rejection noted above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


/Shelley Self/
Primary Examiner
Art Unit 3725

June 19, 2007